

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOSE RODRIGUEZ,

Plaintiff,

v.

Case No. 2:21-cv-56-JLB-NPM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

Before the court is plaintiff Jose Rodriguez's motion for award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d). (Doc. 37). Rodriguez's counsel filed a one-page request for relief that fails to comply with Local Rule 3.01(a)'s requirements for the content of a motion—in fact, it cites no authority besides the EAJA statute itself. As for the proposed order, it violates Local Rule 3.01(f). The motion also fails to include a separate 3.01(g) certification section at the end or state in the title that the motion is “unopposed.” *See* M.D. Fla. R. 1.09 & 3.01(g)(2).

Most importantly, the motion fails to include any time sheets so the court can review the reasonableness of the fees sought. This court and others “in this circuit have reduced requested attorney time as excessive or unreasonable” even when the

request is unopposed. *Porco v. Comm’r of Soc. Sec.*, No. 2:21-cv-32-JLB-NPM, 2022 WL 394394, *1 (M.D. Fla. Feb. 9, 2022) (citations omitted) (overruling movant’s objections and adopting reduced fee award (2022 WL 396318 (M.D. Fla. Jan. 25, 2022)) despite the EAJA motion being unopposed). And the hourly rate—which is unknown—must be “based upon prevailing market rates for the kind and quality of services furnished,” not to exceed \$125 per hour unless the court determines an increase in the cost of living or a special factor justifies a higher fee. 28 U.S.C. § 2412(d)(2)(A).

Therefore, the motion (Doc. 37) is **DENIED without prejudice**. Rodriguez may file an amended motion within two weeks that complies with the Local Rules and this order. Before filing a motion for an attorney’s fee and costs under EAJA, the parties are encouraged to consent to entry of a final order disposing of the EAJA motion by the magistrate judge. To consent, both parties must sign and file a single AO Form 85A.

ORDERED in Fort Myers, Florida, on March 2, 2022.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE